
County of Loudoun
Department of Planning
MEMORANDUM

DATE: December 6, 2010

TO: Loudoun County Planning Commission

FROM: Stephen Gardner, Project Manager
Julie Pastor, Director

**SUBJECT: December 7, 2010 Planning Commission Work Session
Dulles World Center
ZMAP 2008-0018 & SPEX 2010-0008**

BACKGROUND:

At the November 30, 2010 Work Session, the Planning Commission continued its discussion on the application and provided guidance to the Applicant on the outstanding issues. Updated Proffers were received from the Applicant on December 6, 2010. An update to the outstanding issues is noted below, referencing the applicable Proffer section which was revised. Staff review is in progress.

ISSUE STATUS:

The following is intended as an addendum to the November 30, 2010 Work Session item. The Planning Commission discussion and the November 30, 2010 issue status have been retained. However, as noted above, an update referencing the revised proffer section is now provided. Issues considered resolved and which were not discussed by the Planning Commission at the November 30, 2010 Work Session have been removed.

Issue 2: **The inclusion of 1,495 multi-family units is in direct contradiction to policies that prohibit residential within the Route 28 Tax District.**

PC Discussion: The Planning Commission noted that the provision for residential is consistent with the draft Route 28 Corridor Plan, though there was some discussion that the number should be reduced. Implications to public facilities, including schools and recreational amenities, were discussed.

11/30 Status: The number of residential units remains unchanged and is in conflict with the prohibition noted by the Plan for properties located within the Route 28 Tax District.

12/7 Update: **No change has been made.**

Issue 3: Commercial retail and service uses exceed the ten (10) percent maximum anticipated by the Revised General Plan for a Business Community and are not indicative of the employment supportive uses envisioned by the Countywide Retail Policy Plan Amendment.

PC Discussion: The Planning Commission noted the percentage of commercial retail and services is consistent with the draft Route 28 Corridor Plan, though there was some discussion that the percentage should be reduced. Maintaining office as the dominant land use was noted as a priority.

11/30 Status: The amount of commercial retail and service uses remains unchanged and exceeds both the ten (10) percent of the land area anticipated by the Regional Office of the Business Community and the five (5) percent of the gross floor area anticipated by the Retail Plan.

12/7 Update: **No change has been made**

Issue 4: A modification to reduce the percentage of civic uses is inconsistent with the intent of the PD-TC (Planned Development - Town Center) zoning district and is contrary to the Applicant's request that this application be reviewed pursuant to a mixed-use land use designation.

PC Discussion: The Planning Commission clarified the intent of open space versus that of civic space. The Commission debated the merits and realities associated with various percentages being contemplated in a high-density, mixed-use, vertically integrated project (i.e. What is 5% percent of the total square footage, what is this square footage comparable too, and how do you fill it?) Though there was consensus about the importance of civic as part of the land use mix, the discussion was specific to the appropriate amount. The Planning Commission noted that a reduction in the percentage of civic uses may be justified but concluded the discussion was more appropriate as part of the Comprehensive Plan Amendment (CPAM) for the Route 28 Corridor.

11/30 Status: Proffer V.B. remains unchanged. The five (5) percent as specified by the modification has been retained, though a square footage (i.e. 130,000 square feet) has been specified.

12/7 Update: **Proffer V.B. has been revised to specify that at least one (1) use shall have a minimum of 10,000 square feet of building floor area.**

Issue 5: **The Capital Facilities Contribution is not consistent with Board policy in that exemptions are proposed for unmet housing needs units.**

PC Discussion: The Planning Commission recommended that unmet housing needs units be subject to a Capital Facilities Contribution and further recommended the words "...and/or WDUs..." be struck from the Proffers. The Commission concurred with an exemption for Affordable Dwelling Units (ADUs), provided the Proffers specify such will be provided.

11/30 Status: Proffer IV.A. remains unchanged. Unmet housing needs units remain exempt from a capital facilities contribution.

12/7 Update: **Proffer IV.A. has been amended to note that unmet housing needs units in the 70% or greater income tier shall be subject to a capital facilities contribution. All other unmet housing needs units shall be exempt.**

Issue 6: **The application fails to include provisions for unmet housing needs that would apply to a broad range of income levels, consistent with the Countywide Housing Policies.**

PC Discussion: The Planning Commission noted that multi-family residential is the housing type with the greatest need, and the proximity to rail within an employment corridor makes the site ideally suited for unmet housing needs units. As such, the Commission recommended the application provide twelve (12) percent of the total residential units as unmet housing needs units, consistent with that noted in the draft Route 28 Corridor Plan. No direction was given as to whether units should be rental or for-sale.

11/30 Status: Proffer II.A.2 remains unchanged and specifies 6.25% of all units will be either affordable dwelling units or, if such are exempt pursuant to Article 7 of the Loudoun County Zoning Ordinance, unmet housing needs units up to 100% Area Median Income (AMI).

12/7 Update: **Proffer II.A.2. has been amended to provide for twelve (12) percent of all residential units as unmet housing needs units to be distributed amongst the various income tiers as follows: Two (2) percent shall be specified for income tiers that do not exceed 30% AMI; Eight (8) percent shall be specified for income tiers that do not exceed 70% AMI; and Two (2) percent shall be specified for income tiers that do not exceed 100% AMI.**

Issue 7: **The Design Guidelines fail to provide meaningful guidance as to the type, scope, and scale of proposed development.**

PC Discussion: The design discussion was two-fold. First, the Planning Commission reiterated the site's location as the gateway to the County and the need to have iconic architecture that would provide a sense of arrival. Second, the Planning Commission noted the need for more definitive design commitments that would dictate building form and placement as well as that which would define the public realm (i.e. streetscapes, open spaces, etc.) As a recommendation, the Planning Commission endorsed the concept of a third party review of the intangible design concept of iconic architecture, and recommended additional specificity in the proffers and/or design guidelines regarding site design and layout.

11/30 Status: Proffer II.E. has been revised to prohibit parking structures adjacent to Roads B and C, unless the ground floor of such garage contains pedestrian-oriented ground-floor commercial uses. Proffer II.H.2. has been revised to provide for mid-block pedestrian crossings. Proffer II.H. 4. has been inserted and expands the Ordinance provision for pedestrian-oriented businesses along the entire expanse of Roads B and C. Proffer V.A.4. has been inserted and provides general guidance for plazas and open space. Proffer VI.C. has been revised to provide for an architecture review committee to review iconic architecture and street cross sections, currently attached to the Proffers as Exhibit G.

These additions/revisions are appreciated, but no updates were provided to the Design Guidelines. In addition, no commitment to the cross sections has been provided aside from the advisory guidance provided by the architecture review committee, which would be outside of the regulatory authority of the County. Finally, no commitment to a continual street wall along Roads B and C has been provided, consistent with that discussed with the Planning Commission during the Work Session.

12/7 Update: **Proffer II.H.5. provides for construction of the streets in accordance with the respective cross section, attached to the**

Proffers as Exhibit G. Proffer VI.C.2. has been inserted and states the Applicant shall participate in a Route 28 architectural review design board, should one be established.

Issue 8: The application fails to comply with the River and Stream Corridor Policies of the Revised General Plan in that the Fifty Foot Management Buffer is not preserved.

PC Discussion: The Planning Commission recommended conformance to the Fifty Foot Management Buffer. The Planning Commission further recommended that the density from any impacted development areas resulting from conformance to the Buffer be reallocated across the property. Specifically, the Planning Commission recommended that Land Bay 6 be converted to either tree save or open space with a corresponding reallocation of the square footage to other land bays.

11/30 Status: Proffer IX.E. has been revised to remove the provision for encroachments into the Management Buffer. In addition, Sheets 5 of 8 and 6 of 8 of the Concept Development Plan have been revised to delineate either reforestation or tree conservation areas that align and run concurrently with the Management Buffer. These revisions provide assurance that the Management Buffer will be maintained, resolving the issue of conformance with the River and Stream Corridor Policies.

Conversely, the consensus of the Planning Commission was that Land Bay 6 be converted to either open space or tree save. The "Landbay Tabulations" table on Sheet 7 of 8 of the Concept Development Plan has been revised to remove all density associated with Land Bay 6. However, neither the Proffers nor the CDP define the use as open space or tree save. Staff further notes that the open space calculation was not revised to reflect the additional acreage. The intent of Land Bay 6 should be clarified such that it will be retained as open space, consistent with the recommendations of the Planning Commission.

12/7 Update: **Proffer V.A.5. has been inserted and states that Land Bay 6 shall be retained as open space until the first occupancy permit for Phase III. At that time, if the maximum development program specified for the Property can be achieved, Land Bay 6 will be retained as open space. If the maximums cannot be achieved, development will be permitted in Land Bay 6.**

Issue 9: The application fails to recapture lost vegetation and tree stands consistent with the Green Infrastructure policies of the Revised General Plan.

PC Discussion: This issue was discussed in conjunction with Issue 8 above. As noted, the Planning Commission recommended conformance to the Fifty Foot Management Buffer and the conversion of Land Bay 6 to either tree save and/or open space.

11/30 Status: Sheets 5 of 8 and 6 of 8 have been revised to delineate additional tree conservation areas and tree reforestation areas. In concept, this commitment resolves this issue. However, language providing for preservation of reforestation areas has been omitted as well as a timing provision. The refinement of language to provide both will resolve this issue.

12/7 Update: **Proffer IX.D.1. has been amended to specify implementation of the tree reforestation plan prior to or concurrently with the first occupancy permit for the Property. The Proffers further state that planted vegetation shall be inspected two growing seasons after initial planting and supplemented as necessary. Staff recommends language stating that Tree Reforestation Areas be subject to the general Tree Protection language specified in Proffer IX.B.**

Issue 10: The Stormwater Management proffer should achieve a greater level of quality and quantity commitments consistent with the Surface Water Policies of the **Revised General Plan** commensurate with a project of the intensity proposed.

PC Discussion: The Planning Commission was evenly divided on this issue. On one hand, the Commission encouraged the Applicant to follow the stricter standards, while on the other hand, the Commission acknowledged the intent of the Virginia Stormwater Handbook in providing consistent parameters for development.

11/30 Status: Proffers IX.A.1. and IX.A.2. remain unchanged and specify a sixty-six (66) percent impervious cover and fifty (50) percent phosphorous removal, respectively. No commitment to the fifty (50) percent phosphorous removal standard has been provided for Phases I or II, and road and utility infrastructure has been specifically excluded from the standard, suggesting the realized rate may be lower when considering all areas of disturbance. Staff notes, however, Proffer IX.A.2.a.i. has been revised to phase the implementation of green roofs throughout the project, and Proffer IX.A.3 has been added providing for the recycling of rainwater generated by on-site impervious surfaces.

12/7 Update: **Proffer IX.A.2 specifies a minimum of fifty (50) percent phosphorous removal efficiency shall be maintained during all phases of development.**

Issue 12: **Demonstrate how the public recreational needs of future residents will be satisfied.**

PC Discussion: The Planning Commission related this discussion to the provision for on-site civic uses and noted that provisions for recreational facilities (i.e. tot lots, active recreation, etc.) are needed. The Planning Commission further noted that a contribution to sanctioned Parks and Recreation and/or community facilities in the Sterling area may be appropriate.

11/30 Status: Proffer V.C.e. has been inserted specifying a minimum of two (2) outdoor recreational facilities will be provided. Though appreciated, this does not offset the impacts to the County's programmed recreational facilities. A contribution to Parks and Recreation and/or community facilities should be considered, consistent with the guidance provided by the Planning Commission.

12/7 Update: **Proffer V.C.3. has been inserted and notes an unspecified contribution to the County.**

Issue 13: **Modifications 3, 5, and 6 do not achieve an innovative design, improve upon the existing regulations, or otherwise exceed the public purpose and cannot be supported.**

PC Discussion: As part of the discussion regarding a request to reduce setbacks along Innovation Avenue, the Planning Commission discussed the need to facilitate trails and plantings within the setback area, the importance of the setback in mitigating highway impacts, and the ability to accommodate an expansion of the roadway versus the vision of an urban environment where reductions in setbacks may be warranted. Regarding Route 28, the Commission was in general agreement that a reduction could be warranted in order to facilitate iconic gateway architecture. However, there was no consensus amongst the Commissioners regarding either modification request.

Conversely, the Commission was comfortable with the modification to permit buildings up to two hundred (200) feet tall, provided, however, proffer language was included that would require for diversity and variations in height. The Commission proposed that two adjoining buildings may reach the same height but not three adjoining buildings.

11/30 Status: The modifications to reduce the setbacks remain unchanged. Staff cannot support these requests as they do not achieve an innovative design, approve upon the existing regulations, or otherwise exceed the public purpose, the three standards identified by the Revised 1993 Zoning Ordinance by which any modification request is to be evaluated.

Regarding building height, Proffer II.D. has been revised to specify no more than two adjacent office buildings of the same height shall be located in Land Bays A, 9, 10, 11, 12, and 13, those land bays in which office is the predominant use. Though this limitation is appreciated, the Planning Commission discussion seemed to be applicable to all land bays, including those with residential as the predominant use. To avoid the possibility of monotony in building form, a similar approach used for non-residential land bays should be applied to residential land bays.

In addition, the wholesale application of a height increase combined with reductions in setback provide a significant increase in development yield of the Property beyond that anticipated, the repercussions of which may result in incompatibilities with adjoining land uses. Staff notes the Revised 1993 Zoning Ordinance explicitly states no modification shall be granted for the purpose of increasing density and/or Floor Area Ratio (FAR).

12/7 Update: **Proffer II.D.2 has been amended to specify that no more than two residential buildings shall be of the same height within the same bay or immediately across the street in the adjacent land bay.**

Issue 14: A proffer audit should be submitted which compares the current commitments to those included as part of ZMAP 1985-0009, Kavar.

PC Discussion: The Applicant agreed to submit a Proffer Audit. There was no discussion by the Commission.

11/30 Status: A Proffer Audit has not been submitted.

12/7 Update: **The submission did not include a Proffer Audit.**

Issue 15: The definition of multi-family should be clarified to state one individual unit over another individual unit

PC Discussion: The Applicant agreed to make the clarification in the Proffers. There was no discussion by the Commission.

11/30 Status: Proffer II.A.1 has been revised to define multi-family as "...high-rise buildings wherein individual dwelling units occupy separate floors." Staff recommends the definition be clarified to state "...high-rise buildings of at least four (4) stories wherein individual dwelling units that are directly above each other and no unit shall have a separate entrance directly from the outside."

12/7 Update: **Proffer II.A.1. has been amended to state, "...high-rise buildings of at least four (4) stories wherein individual dwelling units are directly above each other and no unit shall have a separate primary entrance directly from the outside..."**

Issue 16: Amend the Landbay Tabulations table to account for civic uses and adjust the maximum non-residential square footage accordingly.

PC Discussion: The Applicant agreed to specify the amount of civic uses and clarify the total square footage. There was no discussion by the Commission.

11/30 Status: The Landbay Tabulations Table on Sheet 7 of 8 of the Concept Development Plan has been revised to specify 130,000 square feet of civic uses.

12/7 Update: **Proffer V.B. has been revised to specify that at least one (1) use shall have a minimum of 10,000 square feet of building floor area.**

Issue 23: Construct a third eastbound and a third westbound lane on Old Ox Road (Route 606) from Route 28 to Rock Hill Road.

PC Discussion: The Planning Commission acknowledged the failing conditions along Route 606 and questioned the impacts the application will have along the corridor. However, the Commission was not inclined to recommend construction of additional lanes but, alternatively, noted a fair-share contribution may be appropriate. The Commission requested the Applicant study the segment of Route 606 between Route 28 and Shaw Road and identify the percentage of Dulles World Center traffic. It was the view of the Commission that this segment of Route 606 would be more reflective of where the greatest volumes would be realized.

11/30 Status: Proffer VII.E has been inserted providing for either a modification of the interchange design to facilitate a westward connection to Pacific Boulevard or a contribution of \$300,000 designated for the future

widening of Route 606. Though this contribution is appreciated, its benefit in alleviating failing Levels of Service (LOS) will be limited. Staff maintains its recommendation that a third eastbound and a third westbound lane should be constructed.

12/7 Update: **Proffer VII.B. has been inserted providing for modification of the interchange design and Proffer VII.E. provides for a contribution of \$300,000 for the future widening of Route 606.**

Issue 25: Construct traffic signals at the intersection of Innovation Avenue, Rock Hill Road, and Dulles Green Boulevard and at the intersection of Rock Hill Road and Biltmore Drive. Amend the proffers to provide for signalization when warranted.

PC Discussion: The Applicant agreed to clarify the language applicable to signalization. There was no discussion by the Commission.

11/30 Status: Though Proffers VII.A.9., VII.A.10., and VII.A.11. have been revised to provide for signalization at the beginning of each applicable phase, when and if warranted, there is no cash equivalency provision should those signals be installed by others. Inclusion of a cash equivalency provision would resolve this issue.

12/7 Update: **Proffers VII.A.9., VII.A.10., and VII.A.11. have been revised to include a cash equivalency provision.**

Issue 27: Amend the Proffers to commit to total trip reductions consistent with that used in the Traffic Impact Analysis, and include provisions for accountability should those measures fail.

PC Discussion: The Planning Commission questioned whether enforcement provisions had been previously included in other land use applications in Loudoun County. The Applicant agreed to refine the proffer language as requested by Staff.

11/30 Status: Proffers VII.H.1.a., VII.H.1.b., and VII.H.1.c. have been revised to specify three points at which the Transportation Demand Management (TDM) program will be evaluated, prior to Phase II, prior to Phase III, and prior to the issuance of an occupancy permit for 3.2 million square feet of non-residential uses. The Proffers state the identified reduction applicable to the respective phase of development shall be realized prior to the issuance of an occupancy permit for the subsequent phase, effectively halting development should the identified threshold not be achieved.

12/7 Update: **No change has been made.**

STAFF RECOMMENDATION:

Staff cannot support this application until such time as issues related to conformance with the Regional Office policies of the Business Community, unmet housing needs, capital facilities, and transportation are resolved.

SUGGESTED MOTION:

1. I move that the Planning Commission forward ZMAP 2008-0018 and SPEX 2010-0008, Dulles World Center, to the Board of Supervisors with a recommendation of denial, based on the attached Findings for Denial.

OR,

2. I move that the Planning Commission forward ZMAP 2008-0018 and SPEX 2010-0008, Dulles World Center, to the Board of Supervisors with a recommendation of approval, subject to the Proffer Statement dated September 16, 2010, revised to December 6, 2010, and with the following Findings for Approval:

- 1) _____
- 2) _____
- 3) _____

OR,

3. I move that the Planning Commission forward ZMAP 2008-0018 & SPEX 2010-0008, Dulles World Center, to a subsequent Planning Commission Work Session for further discussion.

ATTACHMENTS:

1. Vicinity Map
2. Findings for Denial
3. SPEX 2010-0008 Conditions of Approval; dated November 24, 2010
4. Proffer Statement; dated September 16, 2010; revised to December 6, 2010
5. Proffer Statement; dated September 16, 2010; revised to December 6, 2010 (Red-Line to November 22, 2010 draft)
6. Proffer Statement Exhibit A – Zoning Ordinance Modifications; dated September 15, 2008; revised to September 16, 2010 (Attached)
7. Proffer Statement Exhibit C – Dulles Toll Road Overpass Right-of-Way Reservation; dated July 20, 2010; revised to November 16, 2010 (Attached)
8. Proffer Statement Exhibit D – Design Guidelines; dated November 19, 2010 (Attached)

9. Proffer Statement Exhibit E – Sustainable Development Plan; dated December 3, 2010 (Attached)
10. Proffer Statement Exhibit F – Transportation Improvements; dated December 3, 2010 (Attached)
11. Proffer Statement Exhibit G – Street Cross Sections (Attached)

VICINITY MAP



Directions:

From Leesburg, take Leesburg Pike (Route 7) east to Sully Highway (Route 28). Merge onto Route 28 south. Take Route 28 south to Old Ox Road (Route 606). Merge onto Route 606 and travel east toward the Town of Herndon. At the intersection of Old Ox Road and Rock Hill Road, turn right onto Rock Hill Road. Take Rock Hill Road south until the road becomes Innovation Avenue. The subject property will be on both sides of the road.

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FINDINGS FOR DENIAL

1. The application is not in conformance with the policy guidance of the Revised General Plan in that the overall proposed intensity, 1.5 Floor Area Ratio (FAR) inclusive of residential and non-residential uses, exceeds the 1.0 FAR anticipated for Business community.
2. The application proposes high-density residential uses within an area of the Route 28 Tax District where residential uses are explicitly prohibited by the Revised General Plan.
3. Modifications to the Revised 1993 Zoning Ordinance to reduce required setbacks along realigned Innovation Avenue and Route 28 are intended to increase the permitted density, both Floor Area Ratio and dwelling units per acre, on this site and do not achieve an innovative design, improve upon the existing regulations, or otherwise exceed the public purpose.
4. The application fails to provide design commitments that would provide assurance that the pedestrian oriented, transit oriented design as noted in the accompanying Statement of Justification will be realized.
5. The application fails to fully mitigate its impacts to capital facilities by providing a contribution that accounts for all proposed multi-family residential units, inclusive of unmet housing needs units which, by policy, are subject to the Capital Intensity Factors (CIF) adopted by the Board of Supervisors.
6. The application fails to comply with Level of Service (LOS) policies noted in the Revised Countywide Transportation Plan (2010 CTP) in that failing LOS along Route 606 will be exacerbated with mitigation limited to a single left-turn lane.

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CONDITIONS OF APPROVAL (SPEX 2010-0008) – November 24, 2010

1. **Substantial Conformance** – The development of this Special Exception to permit a maximum Floor Area Ratio (FAR) of 1.45 in the PD-OP (Planned Development – Office Park) zoning district use, shall be in substantial conformance with Sheet 1 of 1 (the “Special Exception Plat”) entitled “SPEX 2010-0008 PLAT; DULLES WORLD CENTER,” dated September 2, 2008, revised through November 19, 2010, prepared by William H. Gordon Associates, Inc. (the “Plans”), and incorporated herein by reference, and the Revised 1993 Loudoun County Zoning Ordinance. Approval of this application shall not relieve the applicant or the owners of the Property from the obligation to comply with and conform to any other Zoning Ordinance, Codified Ordinance, or applicable regulatory requirement.
2. **Civic Uses** – A minimum of one (1) acre of land area within Land Bay A shall be devoted to public and civic uses. Public and civic uses may include one or more of the following: plazas, public art, and/or entrance features. Land area to be devoted to public and civic uses shall be delineated on the site for any use within Land Bay A and shall be open to the public concurrent with the issuance of an occupancy permit for any use within Land Bay A.

Note: The applicant has agreed to contribute \$.10 per square foot of development to the servicing Fire and Rescue Company. The contribution shall be divided equally for fire and rescue services. The \$.10 per square foot contribution will escalate annually based on the Consumer Price Index (base year of 1988) in accordance with Board policy and contributions shall be made before issuance of zoning permits for phased development of the project.

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